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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

17 KASSONDRA BAAS and KELLY
LOFQUIST, individually and on behalf of all
18 others similarly situated,

19 Plaintiffs,

20 v.

21 DOLLAR TREE STORES, INC.,

22 Defendant.

CASE NO. C 07-03108 JSW

**DEFENDANT DOLLAR TREE
STORES, INC.'S ANSWER TO
PLAINTIFFS' SECOND
AMENDED COMPLAINT**

JUDGE: Hon. Jeffrey S. White

COMPLAINT FILED: June 13, 2007
TRIAL DATE: No date set.

23
24 Defendant, Dollar Tree Stores, Inc. ("Dollar Tree"), by and through its
25 undersigned counsel, provides the following Answer to Plaintiffs' Second Amended
26 Complaint ("Complaint"):

27 1. Paragraph 1 of the Complaint is a preliminary statement to which no
28 response is necessary. To the extent any response is required, Dollar Tree admits that

1 Plaintiffs filed a lawsuit styled as a class action. Dollar Tree denies that class status is
2 appropriate, denies Plaintiffs are similarly situated, denies it engaged in unlawful
3 conduct, and denies Plaintiffs are entitled to any relief.

4 2. Paragraph 2 is a statement creating definitions for "Class" as those
5 terms are used in the Complaint. As such, no response is required. To the extent a
6 response is required, Dollar Tree denies that this case should proceed as a class action,
7 denies that Plaintiffs have properly defined a class and denies Plaintiffs would be
8 adequate representatives.

9 3. Paragraph 3 of the Complaint asserts a legal conclusion to which no
10 response is required. To the extent a response is required; Dollar Tree denies that this
11 case should proceed as a class action.

12 4. Paragraph 4 of the Complaint asserts a legal conclusion to which no
13 response is required. To the extent a response is required; Dollar Tree denies the
14 allegations in paragraph 4 of the Complaint.

15 5. Paragraph 5 of the Complaint asserts a legal conclusion to which no
16 response is required. To the extent a response is required; Dollar Tree denies that this
17 case should proceed as a class action, denies Plaintiffs would be adequate
18 representatives and denies that the Plaintiffs have been harmed. Dollar Tree avers that
19 no class has been established and no putative class members have been identified and
20 on that basis denies the remaining allegations in paragraph 5 of the Complaint.

21 6. Paragraph 6 of the Complaint asserts a legal conclusion to which no
22 response is required. To the extent a response is required, Dollar Tree denies that
23 Plaintiffs are adequate representatives for a class action against Dollar Tree and denies
24 that this case should proceed as a class action. Dollar Tree avers that no class has
25 been established and no putative class members have been identified and on that basis
26 denies the remaining allegations in paragraph 6 of the Complaint.

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1 7. Dollar Tree avers that no class has been established and denies
2 that class status is appropriate. Dollar Tree denies the remaining allegations in
3 paragraph 7 of the Complaint.

4 8. Paragraph 8 of the Complaint asserts a legal conclusion to which no
5 response is required. To the extent a response is required, Dollar Tree denies that it
6 engaged in any conduct that was unlawful or that damaged Plaintiffs. Dollar Tree denies
7 that common issues predominate with respect to the claims. Dollar Tree denies the
8 alleged class members are entitled to overtime compensation and denies that it failed to
9 issue accurate wage statements. Dollar Tree denies the remaining allegations in
10 paragraph 8 of the Complaint.

11 9. Paragraph 9 of the Complaint asserts a legal conclusion to which no
12 response is required. To the extent a response is required, Dollar Tree denies that it
13 engaged in any conduct that was unlawful or that damaged Plaintiffs. Dollar Tree denies
14 that this case should proceed as a class action and denies Plaintiffs would be adequate
15 representatives. Dollar Tree denies Plaintiffs are entitled to any relief. Dollar Tree
16 denies the remaining allegations in paragraph 9 of the Complaint.

17 10. Dollar Tree admits Plaintiffs have retained counsel. Dollar Tree is
18 without sufficient knowledge or information to form a belief as to the truth of the
19 remaining allegations in paragraph 10 of the Complaint and on that basis denies those
20 allegations.

21 11. Dollar Tree admits that jurisdiction is proper in the United States
22 District Court for the Northern District of California. Dollar Tree denies that Plaintiffs are
23 entitled to any relief and denies the remaining allegations in paragraph 11 of the
24 Complaint.

25 12. Dollar Tree is without sufficient knowledge or information to form a
26 belief as to the truth of the allegations in paragraph 12 of the Complaint and on that
27 basis denies those allegations.

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1 13. Dollar Tree admits it employed Kassondra Baas from approximately
2 August 28, 2005 to on or about January 26, 2007. Dollar Tree denies the remaining
3 allegations in paragraph 13 of the Complaint.

4 14. Dollar Tree is without sufficient knowledge or information to form a
5 belief as to the truth of the allegations in paragraph 14 of the Complaint and on that
6 basis denies those allegations.

7 15. Dollar Tree admits it employed Kathy Lofquist from approximately
8 August 5, 2005 through February 12, 2007 in stores in California. Dollar Tree denies the
9 remaining allegations in paragraph 15 of the Complaint.

10 16. Dollar Tree admits that Plaintiffs purport to bring this action under
11 California Business and Profession Code sections 17000 et seq. and 17200 et seq. and
12 Rule 23 of Federal Rules of Civil Procedure, but Dollar Tree denies that this case should
13 proceed as a class action, representative action or on behalf of the general public.
14 Dollar Tree denies the remaining allegations in paragraph 16 of the Complaint.

15 17. Dollar Tree admits that it is a Virginia corporation that is licensed to
16 and conducts business in the State of California, including Sonoma County. Dollar Tree
17 admits it has over 200 stores in California. Dollar Tree denies the remaining allegations
18 in paragraph 17 of the Complaint.

19 18. Dollar Tree admits it operates more than 200 retail variety stores in
20 California offering goods for \$1.00 or less. Dollar Tree denies the remaining allegations
21 in paragraph 18 of the Complaint.

22 19. Paragraph 19 of the Complaint asserts a legal conclusion to which
23 no response is required. To the extent a response is required, Dollar Tree avers it
24 employs persons to perform routine tasks such as stocking shelves and operating cash
25 registers. Dollar Tree avers it has employees in the position of Assistant Manager.
26 Dollar Tree denies the remaining allegations of paragraph 19 of the Complaint.

27 20. Dollar Tree denies the allegations in paragraph 20 of the Complaint.
28

1 21. Dollar Tree avers it uses electronic time keeping systems to record
2 hours worked by all non-salaried employees and that they are required to use the
3 system to track the start and end of shifts and breaks. Dollar Tree denies the remaining
4 allegations of paragraph 21 of the Complaint.

5 22. Dollar Tree denies the allegations in paragraph 22 of the Complaint.

6 23. Paragraph 23 of the Complaint contains definitions created by
7 Plaintiffs to which no response is required. Dollar Tree denies the remaining allegations
8 in paragraph 23 of the Complaint.

9 24. Dollar Tree avers it issues paychecks to its employees with an
10 itemized wage statement. Dollar Tree denies the remaining allegations of paragraph 24
11 of the Complaint.

12 25. Dollar Tree incorporates its answers to allegations 1 through 24
13 above as if fully set forth herein.

14 26. Dollar Tree avers that the California Labor Code speaks for itself.

15 27. Dollar Tree avers that the California Labor Code speak for itself.

16 28. Paragraph 28 of the Complaint asserts a legal conclusion to which
17 no response is required. Dollar Tree avers that the California Labor Code speak for
18 itself.

19 29. Paragraph 29 of the Complaint asserts a legal conclusion to which
20 no response is required. Dollar Tree avers that the California Labor Code speak for
21 itself.

22 30. Paragraph 30 of the Complaint asserts a legal conclusion to which
23 no response is required. To the extent a response is required; Dollar Tree denies the
24 allegations of paragraph 30 of the Complaint.

25 31. Dollar Tree denies the allegations in paragraph 31 of the Complaint.

26 32. Dollar Tree denies that Plaintiffs are entitled to any relief and denies
27 the remaining allegations in paragraph 32 of the Complaint.
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1 33. Dollar Tree incorporates its answers to allegations 1 through 32
2 above as if fully set forth herein.

3 34. Paragraph 34 of the Complaint asserts a legal conclusion to which
4 no response is required. Dollar Tree avers that the California Labor Code speaks for
5 itself.

6 35. Dollar Tree avers that the California Labor Code speaks for itself.

7 36. Dollar Tree denies the allegations in paragraph 36 of the Complaint.

8 37. Paragraph 37 of the Complaint asserts a legal conclusion to which
9 no response is required. To the extent a response is required; Dollar Tree denies the
10 allegations in paragraph 37 of the Complaint.

11 38. Dollar Tree denies that Plaintiffs are entitled to any relief and denies
12 the remaining allegations in paragraph 38 of the Complaint.

13 39. Dollar Tree incorporates its answers to allegations 1 through 38
14 above as if fully set forth herein.

15 40. Dollar Tree avers that the California Labor Code speaks for itself.

16 41. Dollar Tree avers that the California Labor Code speaks for itself.

17 42. Dollar Tree denies the allegations in paragraph 42 of the Complaint.

18 43. Dollar Tree avers that the California Labor Code speaks for itself.

19 44. Dollar Tree denies the allegations in paragraph 44 of the Complaint.

20 45. Dollar Tree incorporates its answers to allegations 1 through 44
21 above as if fully set forth herein.

22 46. Dollar Tree avers that the California Labor Code speaks for itself.

23 47. Dollar Tree denies the allegations in paragraph 47 of the Complaint.

24 48. Dollar Tree denies the allegations in paragraph 48 of the Complaint.

25 49. Dollar Tree avers that the California Labor Code speaks for itself.

26 50. Dollar Tree denies the allegations in paragraph 50 of the Complaint.

27 51. Dollar Tree denies the allegations in paragraph 51 of the Complaint.

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1 52. Dollar Tree incorporates its answers to allegations 1 through 51
2 above as if fully set forth herein.

3 53. Paragraph 53 of the Complaint asserts a legal conclusion to which
4 no response is required.

5 54. Paragraph 54 of the Complaint asserts a legal conclusion to which
6 no response is required. To the extent a response is required; Dollar Tree denies the
7 allegations in paragraph 54 of the Complaint.

8 55. Dollar Tree admits it operates retail variety stores in California which
9 offer goods for \$1.00 or less. Dollar Tree asserts that whether it sells to the public “as
10 defined” in California Business and Professions Code is a legal conclusion to which no
11 response is required.

12 56. Dollar Tree denies the allegations in paragraph 56 of the Complaint.

13 57. Dollar Tree denies the allegations in paragraph 57 of the Complaint.

14 58. Paragraph 58 of the Complaint asserts a legal conclusion to which
15 no response is required. To the extent a response is required, Dollar Tree avers no
16 class has been established and denies that it engaged in any improper, unfair or
17 unlawful conduct in violation of the California Business and Professions Code. Dollar
18 Tree further denies Plaintiffs are entitled to any relief and denies the remaining
19 allegations in paragraph 58 of the Complaint.

20 59. Dollar Tree denies the allegations in paragraph 59 of the Complaint.

21 60. Dollar Tree denies the allegations in paragraph 60 of the Complaint.

22 61. Dollar Tree avers it issues payroll hour guidelines for its stores.
23 Dollar Tree further avers that its districts and stores have the ability to deviate from the
24 guidelines. Dollar Tree denies the allegations in paragraph 61 of the Complaint.

25 62. Dollar Tree denies the allegations in paragraph 62 of the Complaint.

26 63. Dollar Tree denies the allegations in paragraph 63 of the Complaint.

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1 64. Paragraph 64 of the Complaint asserts a legal conclusion to which
2 no response is required. Dollar Tree avers the California Business and Professions
3 Code speaks for itself.

4 65. Dollar Tree denies that Plaintiffs are entitled to any unpaid wages
5 and denies the remaining allegations in paragraph 65 of the Complaint.

6 66. Dollar Tree incorporates its answers to allegations 1 through 65
7 above as if fully set forth herein.

8 67. Dollar Tree denies that it engaged in any fraud and/or deceit and
9 denies the allegations in paragraph 67 of the Complaint.

10 68. Dollar Tree avers it pays it employees for all work for which they are
11 legally entitled to be paid and pays them overtime in compliance with applicable laws.
12 Dollar Tree denies the allegations in paragraph 68 of the Complaint.

13 69. Dollar Tree denies the allegations in paragraph 69 of the Complaint.

14 70. Dollar tree avers its time keeping system tracks log-ins and
15 alterations to data. Dollar Tree denies the remaining allegations in paragraph 71 of the
16 Complaint.

17 71. Dollar Tree denies the allegations in paragraph 72 of the Complaint.

18 72. Dollar Tree denies the allegations in paragraph 73 of the Complaint.

19 73. Dollar Tree denies the allegations in paragraph 74 of the Complaint.

20 74. Dollar Tree denies the allegations in paragraph 75 of the Complaint.

21 75. Dollar Tree denies the allegations in paragraph 76 of the Complaint.

22 76. Dollar Tree incorporates its answers to allegations 1 through 75
23 above as if fully set forth herein.

24 77. Dollar Tree denies the allegations in paragraph 77 of the Complaint.

25 78. Dollar Tree denies that Plaintiffs are entitled to any unpaid wages
26 and denies the remaining allegations in paragraph 78 of the Complaint.

27 79. Dollar Tree denies the allegations in paragraph 79 of the Complaint.

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1 80. Dollar Tree incorporates its answers to allegations 1 through 79
2 above as if fully set forth herein.

3 81. Dollar Tree avers that the Fair Labor Standards Act speaks for itself.
4 Dollar Tree admits it is an employer within the meaning of the Fair Labor Standards Act.
5 Dollar Tree denies the remaining allegations in paragraph 81 of the Complaint.

6 82. Dollar Tree denies the allegations in paragraph 82 of the Complaint.

7 83. Dollar Tree denies the allegations in paragraph 83 of the Complaint.

8 84. Paragraph 84 of the Complaint asserts a legal conclusion to which
9 no response is required. To the extent a response is required; Dollar Tree denies the
10 allegations in paragraph 84 of the Complaint.

11 85. Dollar Tree denies that Plaintiffs are entitled to any recovery and
12 denies the remaining allegations in paragraph 85 of the Complaint.

13 86. Dollar Tree denies that Plaintiffs are entitled to any relief and denies
14 the remaining allegations in paragraph 86 of the Complaint.

15 87. Dollar Tree denies Plaintiffs are entitled to any of the relief sought in
16 paragraphs 1 through 32 of their prayer for relief.

17 88. Dollar Tree denies any allegation not affirmatively admitted herein.

18 **AFFIRMATIVE DEFENSES**

19 1. Plaintiff's claims are barred, in whole or in part, because the
20 Complaint (or any of its causes) fails to state a claim upon which relief can be granted.

21 2. Without accepting the burden of proof on the matter, Plaintiffs are
22 not similarly situated to other individuals who work or worked as store managers for
23 Dollar Tree.

24 3. To the extent Plaintiffs are asserting a claim under the California
25 Labor Code for a period of time beyond the applicable statute of limitations periods, such
26 claim is barred.

27 4. Without accepting the burden of proof on the matter, Plaintiffs have
28 unclean hands which bars or reduces their claim for relief.

5. Without accepting the burden of proof on the matter, Plaintiffs and/or Plaintiffs' counsel are precluded from bringing this action on a class basis because of Plaintiffs' unclean hands, and/or conduct which disqualifies Plaintiffs and/or Plaintiffs' counsel from serving in a representational capacity.

6. To the extent that Plaintiffs seek punitive damages and/or civil penalties, such claims are unconstitutional under the Federal and State Constitutional provisions of due process, equal protection and/or the excessive fines clauses.

7. To the extent Plaintiffs seek claims under the Private Attorney General Act, such claims are barred because Plaintiffs have failed to demonstrate compliance with the administrative exhaustion requirement of Labor Code § 2699.3(a)(1).

8. While denying any wrong doing or damage to Plaintiffs, Defendant alleges that Plaintiffs' claimed recovery is barred or diminished by a failure to mitigate.

9. While denying any wrongdoing or damage to Plaintiffs, Defendant alleges that any damage or loss sustained by Plaintiffs have been proximately caused by Plaintiffs' own actions or inactions.

10. Dollar Tree reserves the right to seek to amend this Answer raise any and all other defenses that it may learn during discovery.

WHEREFORE, Dollar Tree prays that judgment be entered in its favor and it be awarded its costs, including attorneys' fees and such further relief as this Court deems just and appropriate.

DATED: October 4, 2007

Respectfully submitted,

KAUFF McCLAIN & McGUIRE LLP

By: /S/
ALEX HERNAEZ

Attorneys for Defendant
DOLLAR TREE STORES, INC.

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